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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,059	09/18/2003	John E. Rogers	J. Rogers	5491

7590

09/22/2006

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EXAMINER

CONLEY, FREDRICK C

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,059

Applicant(s)

ROGERS, JOHN E.

Examiner

FREDRICK C. CONLEY

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-16 and 19 is/are allowed.
- 6) ☒ Claim(s) 1-13, 18, 20, 21 and 23-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/10/06 has been entered.

Drawings

The drawings represented by figures 2-10 are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include any reference sign(s) mentioned in the description: Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1-3 4-12, 18, 21, and 23-25 are objected to because of the following informalities: The Applicant should use foam support structure throughout the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, 3, and 12 recite the limitations "foam body structure". There is insufficient antecedent basis for these limitations in the claim.

Claim 13, it is unclear what encases the support structure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S.Pat. No. 5,113,540 to Sereboff.

Claim 13, Sereboff discloses a method comprising placing a support structure configured to minimize localized stress concentration caused by the weight of the body thereon, within the bladder or membrane impervious to gases or other fluids (col. 1 lines 6-19);

completely encasing said support structure, said bladder being sealed only along the periphery of the support structure (col. 3 lines 12-18); and varying the fluid pressure in the support structure by means of a check valve 54 as a means of controlling the resiliency of said support structure to the desired support level (col. 5 lines 14-19).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8, 10-12, 18, and 23-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,113,540 to Sereboff in view of U.S. Pat. No. 3,798,686 to Gaiser.

Claims 1, 18 and 23, Sereboff discloses a device and method comprising:
a support structure 10 (fig. 5) having a top side and a bottom side, said support structure having a plurality of vacant regions defined by the region separated by the boundary of the inside wall of tubular members (32,32',34,34') that extend said top side of said support structure to said bottom side of said support structure and the edge of the pad 58 along inside walls of the tubular members that inherently allows said bottom side of said body structure to be in fluid communication with said top side of said structure throughout the entire volume of said vacant regions while said support structure is in its relaxed state;
a bladder 22 (col. 3 lines 7-11) impervious to gases or other fluids, completely encasing said cushion. Sereboff fails to disclose a passageway/means of varying fluid pressure and a pressure pump. Gaiser discloses a support structure having a passageway 9 (col. 2-3 lines 67-68 & 1-9) and pressure pump (col. 4 lines 52-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a

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passageway and pressure pump with the support structure as taught by Gaiser in order to provide a self inflating structure that can be readily wound into a compact roll (col. 1 lines 57-58).

Claim 3, Sereboff in view of Gaiser discloses the support system of claim 1, and Sereboff further discloses an edge of the structure 54 on the right side under cut such that the edge tapers inward toward the bottom of the support structure (fig. 5)

Claim 2, wherein the sides of the opening thus formed are such that they slope inward from the center like a truncated cone (fig. 5).

Claim 8, wherein said bladder is permanently sealed 30 to prevent any escape of the fluid contained therein (col. 3 lines 12-18).

Claim 10, wherein the support structure contains provisions for localized relief of stress comprising one or more regions where material has inherently been removed or omitted selectively from said seat cushion (Sereboff).

Claim 11, where a variable orifice defined by the tube and closure cap 13 is contained within the surrounding membrane to control the rate of gaseous exchange from within the membrane to outside of the membrane and vice versa (col. 3 lines 10-28).

Claims 12 and 24, Sereboff discloses the support system of claim 1, but fails to disclose a pressure pump. Gaiser discloses a mattress having a pressure pump (col. 4 lines 52-56). It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a pressure pump with the support system as taught by Gaiser in order to adjust the support to individual needs.

Claims 9 and 25, wherein said bladder is enclosed by a sealing, recloseable fastening means defined by a closure cap 13.

Claims 4-5 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,113,540 to Sereboff in view of U.S. Pat. No. 3,798,686 to Gaiser as applied to claim 1, and further in view of U.S. Pat. No. 5,022,111 to Fenner.

Claims 4-5 and 21, Sereboff, as modified, discloses all of the Applicant's claimed limitations as applied to claims 1, but fails to disclose the mattress formed from a convoluted foam material. Fenner discloses a mattress formed from a convoluted foam material 15 with smooth side upward. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a convoluted foam material as taught by Fenner in order for the bottom to conform to the supporting bed frame structure and help distribute the pressure soars to reduce the tendency for upward forces to pass through to the individual.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,113,540 to Sereboff in view of U.S. Pat. No. 3,798,686 to Gaiser as applied to claim 1, and further in view of U.S. Pat. No. 3,846,857 to Weinstock.

Claims 6-7, Sereboff, as modified, discloses all of the Applicant's claimed limitations except for different types of foam material encased in individual membranes in selected regions. Weinstock discloses a mattress formed of different types of foam material encased in individual membranes in selected regions (10, 12, 13, 14, 15). It would have been obvious to one having ordinary skill in the art at the time of the

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invention to employ the different foam material as taught by Weinstock in order to promote maximum comfort and to minimize the occurrence and severity of decubitus ulcers.

Claims 13, 18, 20, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 5,113,540 to Sereboff in view of U.S. Pat. No. 3,017,642 to Rosenberg et al.

Claim 13, 18 and 23, Sereboff discloses a device comprising:
a support structure 10 (fig. 5) having a top side and a bottom side, said support structure having a plurality of vacant regions (32,32',34,34') extending from said top side of said support structure to said bottom side of said support structure wherein said bottom side of said body structure is in fluid communication with said top side of said structure throughout the entire volume of said vacant regions while said support structure is in its relaxed state; a bladder 22 (col. 3 lines 7-11) impervious to gases or other fluids, completely encasing said cushion. Sereboff fails to disclose a passageway/means of varying fluid pressure and a pressure pump. Rosenberg discloses a support structure having a passageway defined by a valve 17. It would have been obvious to one having ordinary skill in the art at the time of the invention to employ a passageway and pressure pump with the support structure as taught by Rosenberg in order to provide a self inflating structure that can be adjusted to the individual user's comfort (col. 1 lines 10-12).

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Claim 20, Sereboff in view of Rosenberg discloses the device of claim 13, wherein Rosenberg discloses a plurality of modules defined by chambers 44, separated from one another and contained within individual fluid-tight bladders.

Allowable Subject Matter

Claims 14-16, and 19 are allowed.

The prior art of record does not teach nor does any combination thereof fairly suggest a process for reducing the development of body lesions by removing, slicing, or cutting tapered portions or portions that are in the shape of an upright truncated cone from a mattress. The combination of elements as set forth in the claims is not shown by the prior art, and in particular the features as set forth above

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 4-12, 18,21, and 23-25 have been considered but are moot in view of the new ground(s) of rejection.

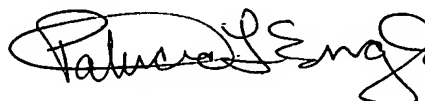
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C. CONLEY whose telephone number is 571-272-7040. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICIA L. ENGLE can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FC



**PATRICIA ENGLE
SUPERVISORY PATENT EXAMINER
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